

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
No. 2:11-CV-66-BO

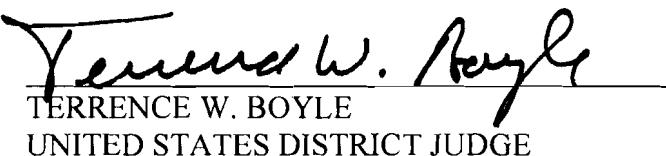
RONALD STEPHEN MIZELL, JR., )  
Plaintiff, )  
 )  
v. )  
 )  
UNITED STATES DEPARTMENT OF )  
AGRICULTURE, RURAL )  
DEVELOPMENT, )  
Defendant. )  
\_\_\_\_\_  
)

ORDER

This matter is before the Court on Defendant's Motion to Dismiss [DE 3]. On November 29, 2011, Plaintiff filed a complaint and obtained a temporary restraining order against Defendant in the Superior Court of Bertie County, North Carolina. The temporary restraining order restrained Defendant from selling certain property at public auction. Defendant removed the action to this Court the same day and filed the instant Motion to Dismiss on November 30, 2011. A hearing by telephonic conference call was conducted in this matter before the undersigned on November 30, 2011, and counsel for both parties was present.

As was stated at the hearing, because Defendant has not waived its sovereign immunity to be sued in state court, this Court lacks jurisdiction to consider this matter. *See Palmer v. City Nat. Bank of West Virginia*, 498 F.3d 236, 246 (4th Cir. 2007). Accordingly, Defendant's Motion to Dismiss is GRANTED, and this action is DISMISSED in its entirety. Defendant may proceed with the sale of its property at public auction.

SO ORDERED, this 30 day of November, 2011.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE